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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

Docket No. 131213999-4281-02

RIN 0648-BD82

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: The Assistant Administrator (AA) for Fisheries, National Oceanic and Atmospheric Administration (NOAA), announces approval of the Area 2A (waters off the U.S. West Coast) Catch Sharing Plan (Plan), with modifications recommended by the Pacific Fishery Management Council (Council), and implementing regulations for 2014. These actions are intended to enhance the conservation of Pacific halibut and further the goals and objectives of the Council. The regulations of the International Pacific Halibut Commission (IPHC) were published on March 12, 2014 and the sport fishing management measures in this rule are an additional subsection of those regulations.

DATES: This rule is effective [INSERT DATE OF FILING AT THE FEDERAL REGISTER].

The 2014 management measures are effective until superseded.

ADDRESSES: Additional requests for information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 7600 Sand Point Way, NE, Seattle, WA 98115. For information regarding all halibut fisheries and general regulations not contained in this rule contact the International Pacific Halibut Commission, 2320

W. Commodore Way Suite 300, Seattle, WA 98199-1287. This final rule also is accessible via the Internet at the Federal eRulemaking portal at <http://www.regulations.gov>, identified by NOAA-NMFS-2014-0009, or at the Office of the Federal Register Web site at [http://www.access.gpo.gov/su\\_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). Background information and documents are available at the NMFS West Coast Region Web site at [http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific\\_halibut\\_management.html](http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html) and at the Council's Web site at <http://www.pcouncil.org>. Electronic copies of the Final Regulatory Flexibility Analysis (FRFA) prepared for this action may be obtained from <http://www.regulations.gov> or from the West Coast Region website at [http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific\\_halibut\\_management.html](http://www.westcoast.fisheries.noaa.gov/fisheries/management/pacific_halibut_management.html). FOR FURTHER INFORMATION CONTACT: Sarah Williams, 206-526-4646, email at [sarah.williams@noaa.gov](mailto:sarah.williams@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The IPHC has promulgated regulations governing the Pacific halibut fishery in 2014, pursuant to the Convention between Canada and the United States for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, D.C., on March 29, 1979). Pursuant to the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773b, the Secretary of State accepted the 2014 IPHC regulations as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act) at 16 U.S.C. 773-773k. NMFS published these regulations on March 12, 2014 (79 FR 13906).

The Halibut Act provides that the Regional Fishery Management Councils may develop, and the Secretary may implement, regulations governing harvesting privileges among U.S.

fishermen in U.S. waters that are in addition to, and not in conflict with, approved IPHC regulations. To that end, the Council has adopted a Catch Sharing Plan (Plan) allocating halibut among groups of fishermen in Area 2A, which is off the coasts of Washington, Oregon, and California. The Plan allocates the Area 2A catch limit among treaty Indian and non-Indian commercial and sport harvesters. The treaty Indian group includes tribal commercial, tribal ceremonial, and subsistence fisheries. From 1988 through 1994, the Council recommended and NMFS implemented annual Catch Sharing Plans. In 1995, the Council recommended and NMFS approved and implemented a long-term Catch Sharing Plan (60 FR 14651; March 20, 1995, as amended by 61 FR 35548). In each of the intervening years between 1995 and the present, the Council has recommended and NMFS has approved minor revisions to the Plan to adjust for the changing needs of the fisheries, in accordance with 50 CFR 300.62. NMFS implements the allocation scheme in the Plan through annual regulations for Area 2A. The proposed rule describing the changes the Council recommended to the Plan and resulting proposed Area 2A regulations for 2014 was published on February 6, 2014 (79 FR 7156).

In previous years, NMFS has published a final rule that includes both the annual management measures for Area 2A and the IPHC regulations. For 2014, NMFS determined that analyses necessary to support the Area 2A regulations could not be completed in time for publication of a final rule including both Area 2A and IPHC regulations prior to the start of halibut fisheries in Alaska and the treaty Indian fisheries in Area 2A. Therefore, NMFS published the IPHC regulations on March 12, 2014 (79 FR 13906). Consequently, this final rule contains only regulations implementing the Plan in Area 2A. The IPHC regulations apply to commercial and treaty Indian fisheries in Area 2A; therefore anyone wishing to fish for halibut

in Area 2A should read both this final rule and the March 12, 2014 rule on the Federal Register that includes the IPHC regulations.

#### Changes to the Pacific Fishery Management Council's Area 2A Catch Sharing Plan

This final rule approves several Council-recommended changes to the Pacific Fishery Management Council's Area 2A Plan, and implements the Plan through annual management measures. For 2014, the Council has recommended, and NMFS has included in this final rule, several changes to the recreational fishery in the South of Humbug Mountain subarea in order to address a pattern of quota exceedances in this subarea. The Council recommendation splits the existing subarea, which includes portions of both southern Oregon and northern California, into two state-specific subareas. This change will allow each state to use the most effective available management tools to keep the catch within their respective quotas. The existing Oregon/California sport fishery allocation of 31.7 percent of the non-tribal allocation is split into a 1 percent California sport fishery allocation and a 30.7 percent Oregon sport fishery allocation. The Council's South of Humbug Policy committee recommended lowering the projected catch in the South of Humbug area by 40 to 60 percent to begin a stepwise process to bring the catches within the quota. Therefore, the new California subarea would be open to fishing from May-July and September-October, with the month of August closed as a quota management measure. The State of Oregon would monitor and manage the Southern Oregon subarea in season to avoid exceeding the quota.

Most of these changes did not generate controversy at the relevant Council meetings. Some members of the public testified against the August closure in the California subarea on the basis that this would reduce income in the affected ports. The Council formed the South of Humbug Mountain workgroup to examine the effect of various management measures on catches

in the South of Humbug Mountain area. The Council also formed the South of Humbug Policy committee to consider the workgroup analysis and make recommendations for management measure changes to reduce catch in this area. The Policy committee ultimately recommended reducing catch in this area by 40 to 60 percent. Based on analysis presented by the workgroup at the September 2013 meeting, the Council determined that this was the best available measure to begin a stepwise process for lowering the projected catch in this area by 40 to 60 percent as recommended by the policy committee. These changes are expected to result in minimal environmental impacts, and should reduce the catch in the area south of Humbug Mountain compared to the last several years.

Additionally for 2014, the Council has recommended several minor changes to the Plan that would: (1) Change the deadline for applying for IPHC licenses for incidental halibut retention in the salmon troll and sablefish fisheries to accommodate earlier start dates for such retention; (2) eliminate the nearshore fishery in the Washington North Coast subarea, as the quota in this subarea is generally used entirely by the all depth fishery; (3) modify the season dates and create a nearshore fishery in the Columbia River subarea to create additional opportunity in this underutilized area; (4) modify the public input provisions for the Oregon central coast subarea to allow the State to use methods other than workshops to obtain public input; and (5) modify the Oregon central coast subarea nearshore fishery dates. This rule also adopts the annual domestic management measures for Area 2A. Changes to these management measures from 2013 are necessary to implement the IPHC's decision regarding the Area 2A Total Allowable Catch (TAC) and the above-described changes to the Catch Sharing Plan. Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, Washington and the Salmon Troll Fishery along the West Coast.

The Plan provides that incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, Washington, will be allowed when the Area 2A TAC is greater than 900,000 lb (408.2 mt), provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). In 2014, the TAC is 960,000 lb (435.4 mt); therefore, the allocation for incidental halibut retention in the sablefish fishery is 14,274 lb (6.47 mt). Landing restrictions were recommended by the Council at its March 8-13, 2014, meeting. NMFS will publish the restrictions in a future final rule in the Federal Register.

The Plan allocates 15 percent of the non-Indian commercial TAC to the salmon troll fishery in Area 2A. For 2014 that allocation is 29,671 lb (13.46 mt).

#### Comments and Responses

NMFS accepted comments through February 21, 2014, on the proposed rule for the Area 2A Plan and annual management measures and received 29 public comment letters: one comment letter each from Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW) recommending season dates for halibut sport fisheries in each state, one letter from the Council correcting the Plan language and resulting allocations for the Oregon subareas and correcting a season opening date in the Washington North Coast subarea, one letter from an individual commenting on treaty rights, and 25 letters regarding halibut fishing off California.

Comment 1: The WDFW held a public meeting following the IPHC's final 2014 TAC decisions to review the results of the 2013 Puget Sound halibut fishery, and to develop season dates for the 2014 sport halibut fishery. Based on the 2014 Area 2A TAC of 960,000 lb (435.4 mt), the halibut quota for the Puget Sound sport fishery is 57,393 lb (26 mt). Because the catch in this area has exceeded the quota in recent years, WDFW has recommended a shorter season

for 2014, even though the allocation to the Puget Sound subarea is the same as 2013. Within the Puget Sound sport halibut fishery, WDFW recommends the following dates: in the Eastern Region open May 9, 10, and 17; May 22-25 (Thu-Sun); May 29-31 (Thu-Sun); and Saturday, June 7. In the Western Region open May 22-25 (Thu-Sun); May 29-31 (Thu-Sun); and Saturday, June 7.

Response: NMFS agrees with WDFW's recommended Puget Sound season dates. These dates will help keep this area within its quota, while providing for angler enjoyment and participation. Therefore, NMFS implements the dates for this subarea as stated above, in this final rule.

Comment 2: ODFW received public comments on Oregon halibut fisheries through a public meeting and an online survey following the final TAC decision by the IPHC. In the Central Coast subarea, ODFW recommends the following days for the spring fishery, within this subarea's parameters, for a Thursday-Saturday season and with weeks of adverse tidal conditions skipped: regular open days May 8-10, May 22-24, June 5-7, and June 19-21. Back-up dates will be July 3-5, July 17-19, and July 31. For the summer fishery in this subarea, ODFW recommends following the Plan's parameters of opening the first Friday in August, with open days to occur every other Friday-Saturday, unless modified in-season within the parameters of the Plan. Under the Plan, the 2014 summer all-depth fishery in Oregon's Central Coast Subarea occurs: August 1, 2; 15, 16; 29, 30; September 12, 13; 26, 27; October 10, 11; and 24, 25.

Additionally, ODFW pointed out that the Catch Sharing Plan language, as transmitted to NMFS by the Council, incorrectly described the intended source of the allocation to the new Southern Oregon subarea as the Spring all-depth allocation rather than the Central Coast allocation. Therefore, the proposed rule incorrectly listed the allocation amounts to the Central

coast subarea spring fishery and the Southern Oregon subarea. The Council submitted corrected Plan language in their comment letter, as described below. ODFW supports the Council's letter correctly describing the allocations.

Response: NMFS agrees with ODFW's recommended Central Coast season dates. These dates will help keep this area within its quota, while providing for angler enjoyment and participation. Therefore, NMFS implements the dates in this final rule. NMFS also agrees with ODFW's clarification for the Central coast subarea and Southern Oregon subarea allocations and implements the corrected allocations in this final rule.

Comment 3: The Pacific Fishery Management Council submitted a letter describing the incorrect Plan language for the Southern Oregon allocation and an incorrect date in the proposed rule for the Washington North Coast subarea. While the intended source of the allocation for the Southern Oregon subarea was correctly described the ODFW report before the Council, it was incorrectly described in Plan language included in that report and transmitted to NMFS after the Council made its final recommendation. The Southern Oregon subarea should be allocated 2 percent of the Central Coast subarea allocation, as was stated in the ODFW report and in the final motion as approved by the Council, and not allocated an amount from the Central Coast spring fishery as described in the proposed rule.

Response: NMFS supports the Council's corrected Plan language as submitted because this language accurately reflects the Council's final motion. NMFS also makes the correction to the Washington North Coast subarea date as described in this final rule.

Comment 4: Several commenters requested NMFS delay the implementation of the Council's recommended August closure in the newly created California subarea. Several commenters stated that fishing has improved each year and there is no evidence that halibut is



overfished in Northern California. Several commenters stated that the decision to close the month of August is no longer necessary because the IPHC survey results for 2013 showed there was 100,000 lbs of exploitable biomass off Northern California that was previously undetected, and that this closure will cause unnecessary economic hardship to recreational anglers.

Response: NMFS agrees that catches in northern California have increased over the last several years and that halibut are being managed at a sustainable level, but NMFS does not agree that this makes the August closure in the California subarea unnecessary. We believe the increase in catches means more information is needed about the relative abundance of halibut, not that the allocation should be increased at this time or that the August closure should be delayed. While more information is being gathered through repeated stock assessment surveys it is necessary to manage the California subarea to its allocation, similar to all other areas. A Council workgroup analyzed Plan changes that would reduce projected catch in California by 40 to 60 percent, relative to the most recent 5 year average, in order to manage this fishery in a manner more consistent with the allocation framework. The analysis showed that even with a reduction of this magnitude, catch in this area is projected to exceed the allocation. However, NMFS believes this management action to close the recreational halibut fishery during the month of August is a good first step in attempting to manage this area in a manner more consistent with the allocation, while additional stock assessment surveys are conducted to help determine relative abundance of the halibut resource in California. Following the Council's South of Humboldt workgroup's analysis, CDFW recommended closing the recreational halibut fishery during August as the best way to achieve the targeted reduction. Other alternatives were analyzed and considered, but they did not result in a season structure that reduced projected catch to the target level while still providing some fishing opportunity.

By way of comparison, subareas in Washington and Oregon have also seen recreational fisheries attain their subarea quotas at faster rates than anticipated. In those cases, inseason management action was taken to control catch and manage in a manner consistent with the allocations. Not implementing the August closure in California for 2014 would result in a harvest much greater than the allocation. NMFS believes it is important to manage the halibut resource in a manner consistent with the Area 2A Catch Sharing Plan. The Council did not recommend a change in the allocations for Area 2A, and until allocations are changed, there is a need to manage this fishery to stay within the overall allocation and subarea allocations.

Regarding the results of the IPHC survey, NMFS believes the commenters misunderstand the implications of the IPHC apportionment and survey results. NMFS acknowledges that in an IPHC presentation from the Interim Meeting, there is a 100,000 lbs difference between the Fishery Constant Exploitation Yield values listed for Area 2A when the expanded survey in 2013 is included and when it is not. However, NMFS does not agree that this means there is simply 100,000 lbs of halibut now available for harvest in California; rather, the survey results show that Area 2A represented a larger portion of the total coastwide halibut biomass. NMFS also disagrees that this makes the August closure unnecessary. 2013 was the first year the IPHC survey operated in Northern California, which is not enough time to show trends in abundance in this area or to delay management changes necessary to address several years of quota exceedences. The IPHC is planning to repeat the northern California survey areas in 2014 and in additional stations at shallow and deeper depths. NMFS believes information gathered from the continuing survey will guide any further discussions relative to halibut abundance.

NMFS understands that closure of the directed recreational halibut fishery in August may have economic impacts on businesses that rely on halibut. However, this fishery restriction is

necessary to significantly reduce catch and manage the fishery in a manner more consistent with the current allocation.

Comment 5: The allocation to the California recreational fishery should be increased to a more appropriate level to reflect the abundance of Pacific halibut off the California coast.

Response: As discussed above, the IPHC conducts an annual stock assessment survey in Area 2A. In 2013, the survey was expanded into Northern California, providing some initial information on halibut abundance in the area. The IPHC has recently announced the expansion of the survey into new areas including areas south of the southern extent of the 2013 survey and shallower and deeper depths for 2014. Survey results will help inform any discussions the Council may have on Plan changes. The Council annually addresses changes to the Plan. NMFS believes the current allocations are appropriate, given the information available. Implementing the Plan, as recommended by the Council, is the best strategy for sustainable management of the halibut resource in Area 2A.

Comment 6: Several comments stated National Standards 2 and 4 are designed to require the Council and NMFS to use the best available science and to allocate fish equitably among different state residents.

Response: While the regulations in this rule are not subject to the National Standards of the Magnuson Stevens Act, the halibut TAC decision is made after the IPHC Commissioners have considered the best available science as presented by the IPHC through stock assessment models, which are informed by the annual survey. As for National Standard 4, the Plan and any changes are discussed through the Council, which has representatives from Washington, Oregon, California, and Idaho. Further, the Council hears advice from advisory bodies composed of industry representatives from all three states and Plan changes go through a two meeting process

with time for the public to comment on any concerns regarding those changes. Plan changes are implemented for the benefit of all citizens.

Comment 7: Treaty rights should be ended, they are divisive and serve no purpose.

Response: This comment is beyond the scope of this final rule and NMFS' authority.

The Plan allocates 35% of the Area 2A TAC to the Tribes with treaty rights to fish for halibut. This allocation is consistent with the treaties and caselaw interpreting those treaties, which are federal law that govern the actions of NOAA.

#### Changes From the Proposed Rule

On February 6, 2014, NMFS published a proposed rule to modify the Plan and recreational management measures for Area 2A (79 FR 7156). The provisions in the proposed rule were based on the final 2A TAC of 960,000 lb. The main changes in this final rule are to add dates for sport fisheries that were not listed in the proposed rule and update the allocations to the Southern Oregon and Central Coast subareas. The proposed rule did not contain final season dates because the states do not submit their final season date recommendations until the final TAC decision is made by the IPHC and the states have held their public meetings. Additionally, this rule increases the Southern Oregon subarea allocation and decreases the Central Coast allocation to match the appropriate Plan allocations, as described in the Comments and Responses section above; neither change affects any other subareas. Finally, one minor change is made to the Washington North Coast subarea dates to correct the error in the proposed rule identified in the Council's comment letter. There are no other substantive changes from the proposed rule.

#### Annual Halibut Management Measures

The sport fishing regulations for Area 2A, included in paragraph 26 below, are consistent with the measures adopted by the IPHC and approved by the Secretary of State, but were developed by the Pacific Fishery Management Council and promulgated by the United States under the Halibut Act. Section 26 refers to a section that is in addition to and corresponds to the numbering in the IPHC regulations published on March 12, 2014 (79 FR 13906).

26. Sport Fishing for Halibut—Area 2A

(1) The total allowable catch of halibut shall be limited to:

(a) 214,110 pounds (97.1 metric tons) net weight in waters off Washington; and

(b) 197,808 pounds (89.7 metric tons) net weight in waters off California and Oregon.

(2) The Commission shall determine and announce closing dates to the public for any area in which the catch limits promulgated by NMFS are estimated to have been taken.

(3) When the Commission has determined that a subquota under paragraph (8) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled in accordance with the Catch Sharing Plan for Area 2A, or announced by the Commission.

(4) In California, Oregon, or Washington, no person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(5) The possession limit on a vessel for halibut in the waters off the coast of Washington is the same as the daily bag limit. The possession limit on land in Washington for halibut caught in U.S. waters off the coast of Washington is two halibut.

(6) The possession limit on a vessel for halibut caught in the waters off the coast of Oregon is the same as the daily bag limit. The possession limit for halibut on land in Oregon is three daily bag limits.

(7) The possession limit on a vessel for halibut caught in the waters off the coast of California is one halibut. The possession limit for halibut on land in California is one halibut.

(8) The sport fishing subareas, subquotas, fishing dates, and daily bag limits are as follows, except as modified under the in-season actions in 50 CFR 300.63(c). All sport fishing in Area 2A is managed on a "port of landing" basis, whereby any halibut landed into a port counts toward the quota for the area in which that port is located, and the regulations governing the area of landing apply, regardless of the specific area of catch.

(a) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is not managed in-season relative to its quota. This area is managed by setting a season that is projected to result in a catch of 57,393 lbs (26 mt).

(i) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is May 9, 10, and 17; May 22-25 (Thu-Sun); May 29-31; and Saturday, June 7. The fishing season in western Puget Sound (west of 123°49.50' W. long., Low Point) is open May 22-25 (Thu-Sun); May 29-31; and Saturday, June 7.

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.), is 108,030 (49 mt).

(i) The fishing seasons are:

(A) Commencing on May 15 and continuing 2 days a week (Thursday and Saturday) until 108,030 (49 mt) are estimated to have been taken and the season is closed by the Commission, or until May 24.

(B) If sufficient quota remains the fishery will reopen on June 5 and/or June 7, continuing 2 days per week (Thursday and Saturday) until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. After May 24, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after May 24 unless the date is announced on the NMFS hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at § 660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.), and Leadbetter Point, WA (46°38.17' N. lat.), is 42,739 lb (19.39 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N. lat. south to 46°58.00' N. lat. and east of a boundary line approximating the 30 fm depth contour. This area

is defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

- (1) 47°31.70' N. lat, 124°37.03' W. long;
- (2) 47°25.67' N. lat, 124°34.79' W. long;
- (3) 47°12.82' N. lat, 124°29.12' W. long;
- (4) 46°58.00' N. lat, 124°24.24' W. long.

The south coast subarea quota will be allocated as follows: 40,739 lb (18.48 mt) for the primary fishery and 2,000 lb (0.9 mt) for the nearshore fishery. The primary fishery commences on May 4, and continues 2 days a week (Sunday and Tuesday) until May 20. If the primary quota is projected to be obtained sooner than expected, the management closure may occur earlier. Beginning on June 1 the primary fishery will be open at most 2 days per week (Sunday and/or Tuesday) until the quota for the south coast subarea primary fishery is taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on May 4, and continues 7 days per week. Subsequent to closure of the primary fishery the nearshore fishery is open 7 days per week, until 42,739 lb (19.39 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

- (ii) The daily bag limit is one halibut of any size per day per person.



(iii) Seaward of the boundary line approximating the 30-fm (55 m) depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360, subpart G.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye rockfish. The South Coast Recreational YRCA is defined at 50 CFR 660.70(d). The Westport Offshore YRCA is defined at 50 CFR 660.70(e).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.), and Cape Falcon, OR (45°46.00' N. lat.), is 11,895 lb (5.4 mt).

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 10 percent or 1,500 pounds of the subarea allocation, whichever is less. The nearshore fishery is restricted to the area shoreward of the boundary line approximating the 30 fm (55 m) depth contour from Leadbetter Point to the Washington/Oregon border and the boundary line approximating the 40 fm (73 m) depth contour in Oregon. The nearshore fishery opens May 5, and continues 3 days per week (Monday – Wednesday) until the nearshore allocation is taken, or September 30, whichever is earlier. The all depth fishing season commences on May 1, and continues 4 days a week (Thursday – Sunday) until 8,564 lb (3.8 mt)

are estimated to have been taken and the season is closed by the Commission, whichever is earlier. The fishery will reopen on August 7 and continue 4 days a week (Thursday – Sunday) until 2,141 lb (0.97 mt) has been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is quota remaining in the Columbia River subarea, but it is insufficient for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, when halibut are on board the vessel, during days open to the all depth fishery only.

(iv) Taking, retaining, possessing or landing halibut on groundfish trips is only allowed in the nearshore area on days not open to all-depth Pacific halibut fisheries.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.), is 185,621 lb (84.2 mt).

(i) The fishing seasons are:

(A) The first season (the “inside 40-fm” fishery) commences July 1, and continues 7 days a week, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon “inside 40-fm” fishery of 22,274 lb (10.1 mt), or any in-season revised subquota, is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined at § 660.71(k).

(B) The second season (spring season), which is for the “all-depth” fishery, is open May 8-10, May 22-24, June 5-7, and June 19-21. The projected catch for this season is 113,229 lb (51.3mt). If sufficient unharvested quota remains for additional fishing days, the season will re-open. Depending on the amount of unharvested quota available, the potential season re-opening dates will be: July 3-5, July 17-19, and July 31. If NMFS decides inseason to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(C) If sufficient unharvested quota remains, the third season (summer season), which is for the “all-depth” fishery, will be open August 1,2; 15, 16; 29, 30; September 12, 13; 26, 27; October 10, 11; and 24, 25; or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period on August 1, 2014. If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning August 8 and ending October 31. If after September 1, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 5 and 6, and ending October 31. After September 1, the bag limit may be increased to

two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod, when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at § 660.70(f).

(f) The quota for landings into ports in the area south of Humbug Mountain, OR (42° 40.50' N. lat.) to the Oregon/California Border (42° 00.00' N. lat.) is 3,712 lb (1.68 mt).

(i) The fishing season commences on May 1, and continues 7 days per week until the subquota is taken, or October 31, whichever is earlier.

(ii) The daily bag limit is one halibut per person with no size limit.

(g) The quota for landings into ports south of the Oregon/California Border (42° 00.00' N. lat.) and along the California coast is 6,240 lb (2.8 mt).

(i) The fishing season will be open May 1 through July 31, 7 days a week and September 1 through October 31, 7 days per week.

(ii) The daily bag limit is one halibut of any size per day per person.

#### Classification

Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters as long as those regulations do not conflict with IPHC regulations. This action is consistent with the Pacific Council's authority to allocate halibut catches among fishery participants in the waters in and off the U.S. West Coast.

This action has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) in association with the proposed rule for the 2014 Area 2A Catch Sharing Plan. The final regulatory flexibility analysis (FRFA) incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, if any, and NMFS' responses to those comments, and a summary of the analyses completed to support the action. NMFS received no comments on the IRFA. A copy of the FRFA is available from the NMFS West Coast Region (see ADDRESSES) and a summary of the FRFA follows.

The main management objective for the Pacific halibut fishery in Area 2A is to manage fisheries to remain within the TAC for Area 2A, while also allowing each commercial, recreational (sport), and tribal fishery to target halibut in the manner that is appropriate to meet both the conservation requirements for species that co-occur with Pacific halibut and the needs of fishery participants in particular fisheries and fishing areas. The changes to the Plan are described above.

Under the Regulatory Flexibility Act (RFA), NMFS must identify the small entities impacted by this rule, describe the impact, and describe any alternative actions considered. This action will affect fishing entities, including commercial and charter or party boats, and towns or communities in the fishing areas. Under the Small Business Administration's (SBA) regulations implementing the RFA, a fishing entity is considered "small" if it has gross annual receipts of less than \$19.0 million. A governmental jurisdiction (i.e., town or community) is considered a small entity if it has fewer than 50,000 people. For marinas and charter or party boats, a small business is one with annual receipts not in excess of \$7.0 million. Although many small and large nonprofit enterprises track fisheries management issues on the West Coast, the changes to the Plan and annual management measures will not directly affect those enterprises. Similarly, although many fishing communities are small governmental jurisdictions, no direct regulations for those governmental jurisdictions will result from this rule. However, charter boat operations and participants in the non-treaty directed commercial fishery off the coast of Washington, Oregon, and California, are small businesses that are directly regulated by this rule. These businesses are vessels that are issued IPHC licenses. In 2013 (the most recent data available), 608 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses for: the directed commercial fishery in Area 2A (149 licenses in 2013); incidental halibut caught in the salmon

troll fishery (332 licenses in 2013); and the charterboat fleet (127 licenses in 2013). No vessel may participate in more than one of these three fisheries per year.

The major effect of halibut management on small entities will be from the internationally set TAC decisions made by IPHC. Based on the recommendations of the states, and as conveyed through the Council, NMFS is implementing minor changes to the Plan that maximize recreational and commercial opportunities under the allocations that result from the TAC. There are no large entities involved in the halibut fisheries; therefore, none of these changes will have a disproportionate negative effect on small entities versus large entities. Based on the economic dimensions of the fishery, these minor proposed changes to the Plan are not expected to have a significant economic impact on a substantial number of small entities. The decreased TAC and associated management measures lead to combined fleetwide declines of under \$700,000 in terms of ex-vessel revenues and recreational expenditures relative to 2013.

As described above, NMFS received 25 letters opposed to closing the new California subarea in August because of the economic impacts of this closure, many of these letters cited the results of a recent IPHC biological survey off California. These issues are addressed in the responses to Comment 4 above.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Section 302(b)(5) of the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The U.S. Government formally recognizes that 13 Washington tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available

in the tribes' usual and accustomed fishing areas (described at 50 CFR 300.64). Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

NMFS prepared an environmental assessment (EA) for the continued implementation of the Plan for 2014-2016 and the AA concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA is available from NMFS (see ADDRESSES).

NMFS conducted a formal section 7 consultation under the Endangered Species Act for the Area 2A Catch Sharing Plan for 2014-2016 addressing the effects of implementing the Plan on ESA-listed yelloweye rockfish, canary rockfish, and bocaccio in Puget Sound, the Southern Distinct Population Segment (DPS) of green sturgeon, salmon, marine mammals, and sea turtles. In the biological opinion the Regional Administrator determined that the implementation of the Catch Sharing Plan for 2014-2016 is not likely to jeopardize the continued existence of Puget Sound yelloweye rockfish, Puget Sound canary rockfish, Puget Sound bocaccio, Puget Sound Chinook, Lower Columbia River Chinook, and green sturgeon. It is not expected to result in the destruction or adverse modification of critical habitat for green sturgeon or result in the destruction or adverse modification of proposed critical habitat for Puget Sound yelloweye rockfish, canary rockfish, bocaccio. In addition, the opinion concluded that the implementation of the Plan is not likely to adversely affect marine mammals, the remaining listed salmon species and sea turtles, and is not likely to adversely affect critical habitat for Southern resident killer whales, stellar sea lions, leatherback sea turtles, any listed salmonids, and humpback whales.



Further, the Regional Administrator determined that implementation of the Catch Sharing Plan will have no effect on southern eulachon; this determination was made in a letter dated March 12, 2014.

NMFS finds good cause to waive the 30-day delay in effectiveness and make this rule effective on filing with the Office of the Federal Register, pursuant to 5 U.S.C. 553(d)(3), so that this final rule may become effective on April 1, 2014. Leaving the 2013 annual management measures in place could harm to the halibut stock, because those measures are not based on the most current scientific information. Also, because the 2014 TAC is lower than the 2013 TAC, allowing the 2013 measures to remain in place could cause drastic management changes later in the year to prevent exceeding the lower 2014 subarea allocations once the 2014 measures are implemented and the 2014 Plan is approved. Those measures might significantly impact the fishery members by causing them to curtail effort or possibly lose revenue. Finally, this final rule approves the Council's 2014 Plan that responds to the needs of the fisheries in each state and approves the portions of the Plan allocating incidentally caught halibut in the salmon troll and sablefish primary fisheries, which start April 1. Therefore, allowing the 2013 subarea allocations and Plan to remain in place would not respond to the needs of the fishery and would be in conflict with the Council's final recommendation for 2014. Finally, this rule could not be published earlier due to a delay in completing the accompanying biological opinion and environmental assessment. For all of these reasons, a delay in effectiveness could ultimately cause economic harm to the fishing industry and associated fishing communities by reducing fishing opportunity later in the year to keep catch in the subareas within the lower 2014 allocations or result in harvest levels inconsistent with the best available scientific information. As a result of the potential harm to the halibut stock and fishing communities that could be

caused by delaying the effectiveness of this final rule, NMFS finds good cause to waive the 30-day delay in effectiveness and make this rule effective upon filing with the Office of the Federal Register.

Authority: 16 U.S.C. 773 et seq.

Dated: April 1, 2014

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Samuel D. Rauch III,  
Deputy Assistant Administrator for Regulatory Programs,  
National Marine Fisheries Service.

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